

AN ORDINANCE

97306

AUTHORIZING AND CONSENTING TO THE ASSIGNMENT AND AMENDMENT OF LEASE NO. 124096 AUTHORIZED BY ORDINANCE NO. 64698 OF MARCH 12, 1987 AT SAN ANTONIO INTERNATIONAL AIRPORT, FROM FAIRCHILD AIRCRAFT INCORPORATED TO M7 AEROSPACE, LP FOR USE OF GROUND SPACE AND BUILDINGS AT SAN ANTONIO INTERNATIONAL AIRPORT; AUTHORIZING THE AMENDMENT OF LEASE NO. 124096 TO PROVIDE AN ADDITIONAL FIVE (5) YEAR EXTENSION AND A SIX (6) MONTH OPTION TO PARTIALLY RECATURE, TERMINATE, DELETE AND RELEASE CERTAIN PARCELS FROM THE LEASED PREMISES AT SAN ANTONIO INTERNATIONAL AIRPORT.

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WHEREAS, The City of San Antonio and Fairchild Aircraft, Incorporated entered into Lease No. 124096 authorized by City Council pursuant to Ordinance No. 64698 dated March 12, 1987, which Lease has been amended on five occasions; and

WHEREAS, Fairchild, together with three of its subsidiaries, has entered into an Asset Purchase Agreement (the "APA") with 4M Investment LLC, ("4M"), and pursuant to an Assignment and Assumption Agreement dated as of January 1, 2003, 4M has assigned its interest in the APA to M7 Aerospace, LP ("M7"); and

WHEREAS, the closing of the transactions contemplated by the APA is subject to the assignment by Fairchild to M7 of its interest in the Lease, and the amendment of the Lease with respect to certain matters requested by M7 and approved by the City; and

WHEREAS, Fairchild has filed for bankruptcy relief under Chapter 11 of Title 11 of the United States Code and the bankruptcy court has entered a Sale Order (as defined in the AA) pursuant to which certain assets described in the APA, including the lease, will be transferred and assigned by Fairchild to M7 pursuant to the terms and conditions of the APA; and

WHEREAS, portions of the lease premises are subleased to Dornier Aviation North America, Inc., ("DANA") which has also filed for relief under Chapter 11 of Title 11 of the United States Code and M7 is desirous of acquiring certain assets of DANA, with the approval of the Court; and

WHEREAS, M7 has requested an amendment of the Lease to allow M7, for a period of six (6) months, to partially terminate the Lease as to all or a portion of the Leased Premises which are currently subleased to DANA or are otherwise affected by DANA's operations and to allow it and option to extend the Lease for an additional five (5) year period; and

WHEREAS, M7 has agreed to relinquish from its leased premises Tract C of the leasehold in order for Bernard Fourrier d/b/a Aerosky, another tenant at the Airport, to expand; and

WHEREAS, the City is willing both to approve the request of Fairchild to assign its rights under the Lease to M7 and to grant the requests of M7 to amend the Lease, which agreement of the parties are set out in this pending Assignment and Sixth Amendment; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. This assignment and amendment of Lease No. 124096 is subject to and conditioned upon the Closing, as defined in the Asset Purchase Agreement (APA) occurring as contemplated in the APA.

SECTION 2. The City Manager or her designee is hereby authorized to execute the Assignment and Amendment of San Antonio International Airport Lease Agreement No. 124096 attached hereto and incorporated herein by reference for all purposes as Attachment 1, which approves the assignment and amendment of the rights of Fairchild Aircraft Incorporated to M7 Aerospace L.P. for use of 1,070,866 square feet of ground space and City-Owned buildings at the San Antonio International Airport.

SECTION 3. Annual ground space rental will be \$330,632.68 (1,070,866 square feet that vary from \$0.225 to \$0.335 per square foot per year) and annual building rentals of \$632,637.97 (413,262 square feet of building space times rates that vary from \$0.4545 to \$3.70 per square foot per year).

SECTION 4. The proceeds of the agreement shall be deposited into Fund No. 51-000 entitled "Airport operations and Maintenance Fund," Index Code 031088, entitled "Airport Ground Rental Common Industrial Area" and Index Code 031062, entitled "Airport Building Rental-Common Industrial Area."

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance of the City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Index Codes and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 6. This Ordinance shall be effective on and after the tenth (10th) day after passage hereof.

PASSED AND APROVED THIS 13TH DAY OF March, 2003.

M A Y O R

EDWARD D. GARZA

ATTEST: *Felanda L. Lechman*
City Clerk

APPROVED AS TO FORM: *Jim Zentuche*
for City Attorney